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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/584,216

10/23/2006

Martin Mastenbroek

2005-1038

9725

466 7590 08/10/2011

YOUNG & THOMPSON  
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Alexandria, VA 22314

EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

NOTIFICATION DATE

DELIVERY MODE

08/10/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/584,216 | <b>Applicant(s)</b><br>MASTENBROEK, MARTIN |  |
|                              | <b>Examiner</b><br>COLLEEN M. QUINN  | <b>Art Unit</b><br>3634                    |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7-15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119, to foreign patent applications NL 1025127 and NL 1025821, *however it still does not appear to be proper.*

The applicant previously submitted translated copies of the foreign priority documents to which he was claiming foreign priority. However, neither of the foreign documents/ NL patents submitted actually discloses the invention of US application 10/584216. It appears that once again the foreign priority documents only disclose the invention of US application 10/584215, and not the invention of this instant application US 10/584216.

In response to the applicant's remarks of June 8th, 2011 that note:

*"Applicants note the Examiner's statements regarding the priority documents and submit while there is not a one-to-one correspondence between either of the priority documents that the totality of the two documents discloses the features of the international application and the instant application" [emphasis added]*

The examiner notes that she still does not see where the applications submitted disclose the instant invention and that if the applicant does truly believe that these documents teach the same invention as being claimed then there are some pending Double Patenting issues to be determined. Applicant is required to point out where and how the priority documents teach the instant invention of this application. 10584216.

The foreign priority claim for this application to foreign patent applications NL 1025127 and NL 1025821 is still not proper or accepted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Zink (DE20109056). Zink discloses a safety device (figure 2) for a fall restraint, comprising: anchoring means (5) to which the fall restraint can be coupled directly or indirectly, and fastening means (9) that make a firm and durable connection to a wall (figures 1 & 2), the fastening means comprise a flexible fastening flap (9) which forms part of an optionally unrolled roll of roof covering material (figure 2); a fastening net (8) incorporated in the roll of roof covering material (figure 2), and extending from the fastening flap (figure 2), wherein the anchoring means are connected via the fastening net to the flexible fastening flap (figure 2); wherein the fastening net is polygonal shaped and is attached to the fastening flap at more than one side of said polygonal shape (figure 2); wherein the fastening net is integrated in the fastening flap (figure 2); wherein the fastening net is strengthened with longitudinal threads and transverse threads (figure 2); wherein the fastening net, and therefore the roof covering material, is manufactured at least partially from a plastic material (description, page 1, paragraph 1, sentence 1); wherein the fastening flap forms part of an optionally unrolled

Art Unit: 3634

roll of roof covering material (figure 2); the fastening net is fixed to an inlay in the roof covering material (figure 1) and is incorporated therewith in the roof covering material (figures 1 & 2); and wherein the anchoring means comprise an eyelet/ring/loop (5);

### ***Response to Arguments***

Applicant's arguments filed June 8th, 2011 have been fully considered but they are not persuasive.

A response to the foreign priority remarks can be found at the beginning of this Office action.

The applicant argues that the fastening net of Zink does not extend from the flexible fastening flap and that the net is only disclosed as being "on" and "applied around". This is not persuasive, since, as noted above, and seen in figure 2, the net (8) does indeed extend from the flap (9). The two are connected at many points so the net very clearly extends from the flap. Regarding the arguments directed to the pieces only being connected "on" and "applied around" the examiner notes that these terms are synonymous with "extending" just as the net could be referred to as being "within" the flap or "part of" or "arranged in".

The arguments directed to mesh size of Zinc are moot since they are directed to features not claimed. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLLEEN M. QUINN whose telephone number is (571)272-6289. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/COLLEEN M QUINN/  
Examiner, Art Unit 3634

/Alvin C. Chin-Shue/  
Primary Examiner, Art Unit 3634